

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Portland Taxicab Company	)	File Number EB-03-PO-070
	)	
Licensee of Station WPRJ576	)	NAL/Acct. No. 200432920001
Portland, Oregon	)	FRN 000-865-1051

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: January 30, 2004**

By the Enforcement Bureau, Portland Resident Agent Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Portland Taxicab Company (“Portland Taxi”), the licensee of radio station WPRJ576, apparently willfully and repeatedly violated Sections 1.903(a), 90.210, 90.403(e) and 90.425(a) of the Commission’s Rules (“Rules”),<sup>1</sup> by operating the radio station inconsistent with terms of the station authorization, emitting excessive emissions, causing harmful interference to an amateur radio station and failing to transmit proper station identification. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”),<sup>2</sup> that Portland Taxicab Company is apparently liable for a forfeiture in the amount of twelve thousand dollars (\$12,000).

**II. BACKGROUND**

2. On March 13, 2003, the Federal Communications Commission’s (“FCC”) Portland Resident Agent Office received a complaint from amateur radio station AB7F that interference was being received in the frequency band 440.700 – 440.780 MHz. An agent from the FCC’s Portland Resident Agent Office monitored the frequency band and observed the interference. The agent located the interfering signal to a repeater station operating on the frequencies 452.250 MHz and 457.250 MHz on top of Mt. Scott in Clackamas County, Oregon. The geographical coordinates for the repeater location are 45°27'17" north latitude and 122°33'01" west longitude. A search of the Commission’s records did not reveal any licenses issued to operate on the frequencies 452.250 MHz or 457.250 MHz at this geographical location. The agent observed and measured spurious emissions in the frequency band from 440.700 MHz to 440.780 MHz at approximately 55 dB below the fundamental frequency 452.250 MHz transmitted from this repeater. The

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<sup>1</sup> 47 C.F.R. §§ 1.903(a), 90.210, 90.403(e) and 90.425(a).

<sup>2</sup> 47 U.S.C. §503(b).

agent located the control point station of the repeater to a business owned by Portland Taxi at 12624 NE Halsey Street, Portland, Oregon 97230. The agent inspected the control point station at this address and observed a FCC license posted with call sign WPRJ576 issued to Portland Taxicab Company to operate a repeater and mobile stations on frequencies 452.125 MHz and 457.125 MHz in Clackamas County, Oregon. The agent issued a verbal warning to Portland Taxicab's office manager concerning the unauthorized operation on frequencies 452.250 MHz and 457.250 MHz. The agent also issued a verbal warning concerning the spurious emissions transmitted by the repeater transmitter on Mt. Scott that caused interference to amateur station AB7F and the violation of failure to transmit the station identification. The FCC agent was advised that actions would be taken to change the frequencies and fix the transmitter.

3. On March 17, 2003, the agent again monitored the frequencies 452.250 MHz and 457.250 MHz. The agent determined that Portland Taxi, despite verbal warnings received on March 13, 2003, was still using the above frequencies at the same locations without FCC authorization, was transmitting spurious emissions, was causing interference and failed to identify the station.

### III. DISCUSSION

4. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or any rule, regulation or order issued by the Commission there under, shall be liable for a forfeiture penalty.<sup>3</sup> The term "willful" as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly and the term "repeated" means the commission or omission of the act more than once or for more than one day.<sup>4</sup>

5. Section 1.903(a) of the Rules requires that radio stations operating pursuant to Part 90 of the Commission's Rules must be used and operated only in accordance with Rules applicable to their particular service and with a valid authorization granted by the FCC. Portland Taxi is authorized to operate only on frequencies 452.125 MHz and 457.125 MHz, but was operating on the frequencies 452.250 and 457.250 MHz, which are Commission allocated frequencies.

6. Section 90.210 of the Rules requires that equipment operated with a 25 kHz channel bandwidth must meet the attenuation requirement at least  $43 + 10 \log(\text{power output})$  dB for any emission removed from the center of authorized bandwidth by more than 250 percent. Portland Taxi's license, WPRJ576, was assigned with an emission 20K0F3E (20kHz bandwidth) at a power output of 75 watts. Therefore, any emissions in the frequency band 440.700 to 440.780 MHz must be attenuated at least 62 dB. At the time of the inspection, the agent measured the spurious emissions in the frequency band 440.700 to 440.780 MHz at a level of 55 dB attenuated from the fundamental frequency 452.250 MHz. The spurious emissions in the frequency band 440.700 to 440.780 MHz caused harmful interference to amateur radio station AB7F.

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<sup>3</sup> 47 U.S.C. § 503(b).

<sup>4</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387-88 (1991). Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to Section 503(b), provides: "[t]he term 'repeated', when use with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

7. Section 90.403(e) of the Rules requires licensees to take reasonable precautions to avoid causing interference, including monitoring the frequency for communications in progress and other measures as may be necessary to minimize the potential for causing interference. The radio station WPRJ576, operated by Portland Taxi, was observed causing interference on March 13, 2003, was issued a warning on March 13, 2003, but continued transmitting and causing interference on March 17, 2003.

8. Section 90.425(a) of the Rules requires that each station or system licensed in Part 90 is to be identified by the transmission of the assigned call sign during each transmission or exchange of transmissions, or once each fifteen minutes. The agent monitored Portland Taxi's transmissions on March 13 and March 17, 2003, and did not observe any station call sign.

9. Based on the evidence before us, we find that on March 13 and March 17, 2003, Portland Taxicab Company willfully and repeatedly violated Section 1.903(a) of the Rules by operating on frequencies 452.250 MHz and 457.250 MHz without a valid FCC authorization, Section 90.210 and 90.403(e) by transmitting spurious emissions resulting in interference to an amateur radio station and Section 90.425(a) by failing to transmit the station identification. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines, (Forfeiture Policy Statement)*,<sup>5</sup> and Section 1.80 of the Commission's Rules,<sup>6</sup> the base forfeiture amount for operating on an unauthorized frequency is \$4,000, for causing interference is \$7,000 and for failing to provide station identification is \$1,000. Accordingly, the total base forfeiture in this instance is \$12,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violation(s), and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.<sup>7</sup> Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case, a \$12,000 forfeiture is warranted.

#### IV. ORDERING CLAUSES

10. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act, and Sections 0.111, 0.311 and 1.80 of the Commission's Rules,<sup>8</sup> Portland Taxicab Company is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of twelve thousand dollars (\$12,000) for violating Sections 1.903(a), 90.210, 90.403(e), and 90.425(a) of the Commission's Rules.<sup>9</sup>

11. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Portland Taxicab Company SHALL PAY the full

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<sup>5</sup> *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

<sup>6</sup> 47 U.S.C. § 1.80(b)(4).

<sup>7</sup> 47 U.S.C. § 503(b)(2)(D).

<sup>8</sup> 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>9</sup> 47 C.F.R. §§ 1.903(a), 90.210, 90.403(e) and 90.425(a).

amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

12. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment must include the NAL/Acct. No. and FRN referenced in the caption.

13. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington, D.C. 20554, Attn: Enforcement Bureau – Spectrum Enforcement Division and must include the NAL/Acct. No. referenced in the caption.

14. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

15. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>10</sup>

16. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Spectrum Enforcement Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at 202-418-0990.

17. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Portland Taxicab Company, 12624 NE Halsey Street, Portland, Oregon 97230.

FEDERAL COMMUNICATIONS COMMISSION

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<sup>10</sup> See 47 C.F.R. § 1.2914.

Portland Resident Agent Office  
Enforcement Bureau

Enclosure: Attachment A